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E. ROBERT SEAVER

# In the Supreme Court of The United States

No. 89 October Term, 1970

ALTON J. LEMON, PRISCILLA REARDON, BETTY J. WORREL, and PENNSYLVANIA STATE EDUCATION ASSOCIATION, PENNSYLVANIA CONFERENCE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, PENNSYLVANIA COUNCIL OF CHURCHES, PENNYSLVANIA JEWISH COMMUNITY RELATIONS CONFERENCE, AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE, AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA, INC.,

*Plaintiffs-Appellants,*

*vs.*

DAVID H. KURTZMAN, as Superintendent of Public Instruction of the Commonwealth of Pennsylvania, GRACE SLOAN, as State Treasurer of the Commonwealth of Pennsylvania, ST. ANTHONY'S ROMAN CATHOLIC CHURCH SCHOOL, ARCHBISHOP WOODS GIRLS HIGH SCHOOL, UKRAINIAN CATHOLIC SCHOOL, GERMANTOWN LUTHERAN ACADEMY, AKIBA HEBREW ACADEMY, PHILADELPHIA MONTGOMERY CHRISTIAN ACADEMY, and BETH JACOBS SCHOOLS OF PHILADELPHIA,

*Defendants-Appellees,*

*and*

PENNSYLVANIA ASSOCIATION OF INDEPENDENT SCHOOLS,

*Intervenor-Defendant-Appellee.*

*On Appeal from a District Court of Three Judges for the Eastern District of Pennsylvania*

## BRIEF OF THE SCHOOL DISTRICT OF THE CITY OF SCRANTON, *Lackawanna County, Pennsylvania, Amicus Curiae, as Sponsored by the District Solicitor, James A. Kelly, Esq.*

JAMES A. KELLY,
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## INTEREST OF THE *AMICUS*

The School District of the City of Scranton, the Amicus herein, is a body corporate quasi-municipal corporation and a political subdivision of the Commonwealth of Pennsylvania, statutorily ordained as a school district of the second class to carry out the Pennsylvania constitutional mandate for public education, which by law serves public and private school students, in the City of Scranton, its boundaries being contiguous to the said school districts, all of whose powers and duties may be found in the *Public School Code of* 1949, *March* 10, *P.L.* 30, *Art. I, Section* 101, *et seq.*, as amended. 24 *P.S.* 1-101, *et seq.*

The Public School Code of 1949 requires compulsory education, with few exceptions, for all children between the ages of eight and seventeen years in a day school or by tutor, not necessarily in a recognized public school. Therefore, the fulfillment of these statutory requirements may be secured in a private or non-public school, provided the curriculum conforms to standards of the Pennsylvania Department of Education; thus is encouraged private and/or non-public schools, which no one doubts exist in substantial proportion to the recognized public school system in this Commonwealth. *Act of* 1949, *March* 10, *P.L.* 30, *Art. XIII, Sec.* 1326 *through* 1333, 24 *P.S.* 13-1326 *through* 13-1333.

In accordance with Rule 42 (4), this brief is filed and sponsored by the Solicitor of the School District of the City of Scranton, as the authorized law officer for the said political subdivision. *U.S. Sup. Ct. Rule* 42 (4), 28 *U.S.C.*

The authority granted and interest in this case of the Board of Directors of the School District of the City of Scranton may be found in *Resolution to File of Solicitor No.* 12, 1970, *attached as Advisory A.*

## ARGUMENT

### 1. HISTORICAL PERSPECTIVE

Under the American form of federalism, the people reside in and are citizens of not only the United States but also of the states in which they dwell. The powers of government have been distributed by the Constitution between the national and the states governments. The tenth amendment to our Constitution reads:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Since the Constitution does not delegate to the nation general authority over the field of education, its supervision and control is reserved to the states. Nevertheless, the states' control over education is not exclusive. It is shared with the parents. This principle has been acknowledged by this Court in *Pierce v. Society of Sisters*, 268 *U.S.* 510, 535 (1925):

> The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.

Most political philosophers agree that the state or its government should not attempt to do for its people what the people can do, and do perhaps better, for themselves. Ordinarily, the primary objective or aim of a state should be the creation of an orderly state of affairs in which the people can develop themselves to the highest degree—physically, intellectually and morally. Because parents do not have either the ability or the time to give their children a proper and adequate education, and because the state requires an intelligent citizenry in our country, the government of the fifty states, acting in the name and authority of the parents and of the

federal constitution, offer facilities for education to their children.

From the earliest times in American history, the states have shared their educational function with private organizations—denominational and nondenominational. The earliest schools were in fact private, not public. As our educational system has expanded, private and non-public schools have worked side by side with public institutions to provide training—elementary to graduate level—for Americans. Their combined efforts have been remarkably successful. This sharing of a state function has not been restricted to the field of education.

In many states, transportation and utilities have been furnished by private companies or corporations, as well as by public agencies. No one is shocked or surprised when the state grants these private organizations subsidies to assist them in performing a public function. In similar manner, since the private school is assisting the state in performing its educational function, the school is doing a public service and might appropriately be subsidized in doing it.

Other nations in the world have recognized this public service character of private and non-public schools and have found means of providing subsidies for them. Our own national government, speaking through this Court, has acknowledged and approved the public service function of the private school. Various states in the Union have also recognized it and have found means to assist materially in its implementation. In *Everson v. Board of Education*, 330 U.S. 1, 7 (1947), this Court sustained parents who were reimbursed by the state for bus expenditures in getting their children to and from school. Mr. Justice Black, speaking for this Court, said:

*Argument*

It is much too late to argue that legislation intended to facilitate the opportunity of children to get a secular education serves no public purpose.

Accordingly, non-public schools serve the public welfare and perform a public function.

The City of Scranton, County of Lackawanna and Commonwealth of Pennsylvania, in fact most of Northeastern Pennsylvania, now benefit from widespread non-public school systems, the foremost of which in the environs of the Scranton School System is the Scranton Diocese Roman Catholic Parochial School System.

This system is sponsored by the Bishop of Scranton, governed by a school board of lay and clerics and staffed by various orders of religious whose numbers are diminishing to that extent whereby lay teachers are equal to or outnumber those teachers who also are members of a religious order. *See Advisory B from Reverend Monsignor William L. Donovan, Superintendent of Scranton's Diocesan Schools.*

Although a large scale non-public school system exists here, this was not always the case. Rather this system was allowed to grow and grow from its humble beginnings in 1860 when the Immaculate Heart Sisters, who at the time "tilled the soil of Northeastern Pennsylvania alone", organized St. Alphonsus (Laurel Hill) Academy, Susquehanna, Susquehanna County, Pennsylvania. From then until now this non-public system attained monumental proportions in service to a great segment of the tax-paying public. A Century of History, The Diocese of Scranton, 1868-1968. Rev. John P. Gallagher, Ph.D. Library of Congress. Catalog Card No.: 68-56284.

This great school system has finally reached its economic and personnel breaking point by the closure of its first school, "Laurel Hill", in June of 1970. While it is a fact that other

such institutions have been required to close, this can be avoided, to the benefit of the tax-paying public and the sanity of public school staffs, only if a means such as *Act* 109, *the Pennsylvania Non-Public Elementary and Secondary Education Act of* 1968, *June* 19, 24 *Purdon Statutes* 5602, *et seq.*, is approved by this Court.

Although it is not possible to completely cover the parallel and complementary growth of the traditional public and private school systems still operating in the City of Scranton, it is interesting to note that they began their growth in earnest at about the same time and under similar circumstances. For instance, a bound report to be found in the Office of the Superintendent of Schools for Scranton titled: "Report of the Board of School Directors (1915)" tells us this:

> "In its early history Scranton contained four separate and independent school districts; the first district comprised the First, Second and a part of the Thirteenth wards; the second district, the Third and Twenty-first wards; the third district, the Fourth, Fifth, Sixth, Fourteenth, Fifteenth and Eighteenth wards; the fourth district comprised the Seventh, Eighth, Ninth, Tenth, Eleventh and Twelfth wards.
>
> As the city grew in size and importance the disadvantages of this system became more and more apparent. The requisite Act of Assembly having been passed in 1874, the necessary preliminary steps were taken, and April 30, 1877, the four districts were consolidated into the present City of Scranton School District."

In like fashion, "A Century of History," supra, reveals these facts:

> "Up to the end of its first decade of existence, the Scranton Province (Immaculate Heart of Mary Sisters) had to be most selective as to where and when its slender

resources, in terms of personnel, would be used. If the community was to grow, it had to have the widest possible access to the vocation potential of northeastern Pennsylvania. For reasons of logic, therefore, choice locations were given priority over parochial needs as such. It was a wise policy and it served the purpose of recruitment well. With the novitiate at Carbondale, its site since 1876, constantly expanding, the Immaculate Heart Sisters were able to turn their attention at last to the specific and pressing challenges of the lower Lackawanna valley. Four schools, one after another, were established in Scranton and a fifth in nearby Olyphant within the next ten-year period. In the order of their founding, they included Holy Rosary, Providence, in 1882; St. Patrick's, Hyde Park, 1885; St. John the Evangelist's, South Side, 1887; St. Paul's, Green Ridge, and St. Patrick's, for the mid-valley area, 1892."

Parenthetically, but to highlight the need for support from Act 109 to the non-public sector as a means of lessening the economic and practical crisis that could occur in the public school sector let us report additional closings from the above opening list, to wit: Holy Rosary, St. Paul's and St. Patrick's as secondary schools and St. John the Evangelist as an elementary school. These were all closed after 1967 to the current date.

## 2. BUDGET, TAXES AND SCHOOL OFFICIALS

There is no other way of proving increased costs, greater teacher-pupil load, a strain or impossible conditions upon facilities other than through blunt words and hard facts and figures.

Without a record to rely upon, we submit to the Court certain advisories and schedules essentially for these purposes:

1. To relate the professional judgment of *Scranton's Chief School Administrator, Mr. Eugene M. Langan, See Advisory C.*

2. To determine budgetary and tax consequences from 1960 through 1969, *see Schedule I*, and for the years 1970 through 1978, *see Schedule II*, as furnished by the *District Secretary, Mr. Thomas W. Hogan.*

3. To realize the formidable task of Scranton taxpayers and their elected officials had there been or should there be a diminution or complete closure of the Non-Public School System, even in steps of 25 per cent, 50 per cent, or in the extreme of 100 per cent, *see Mr. Hogan's Schedules III* (1960 through 1969) *and IV* (1970 through 1978). Moreover, *see Secretary Hogan's Schedule V*, which sets forth a comparative cost analysis of actual building costs and financing through 1969, and projected building costs only, without considering the present high cost of financing, for those years from 1970 through 1978.

Accordingly, any clear thinking person given only a minimum of business acumen would, barring a clear case of constitutional prohibition, judge in favor of the theory and result achieved by Act 109 and against calamitous impairment in the education of our youth and/or the tax burden upon all adults, particularly those of family and/or without adequate income.

*Argument*

## 3.SPECIFIC TAXES FOR COMPULSORY EDUCATION

From a review of Schedules I, II, and III, infra, this Court can easily satisfy itself, if it cannot do so from its own experience, that the cost of education has spiralled. To take, and scan, Schedule I, infra, for sheer comparison of the cost of education in Scranton for the past decade is simply breath-taking.

As an example of how the cost of public education is shared, the taxpayers of the Scranton School District bear at least 50 per cent of the burden and the Commonwealth of Pennsylvania usually less.

In 1963 a financial crisis arose in Pennsylvania essentially because of legitimate teacher demands for more salary. To meet these demands, which were made to the Pennsylvania General Assembly as well as to the local school board, the legislature reacted by adopting the (six per cent) "Tax Act of 1963 for Education," 1956, *March* 6, *P.L.* (1955) 1228, *Art. I, Sec.* 1, 1963, *May* 29, *P.L.* 49, *Sec.* 2, 72 *P.S.* 3403-1.

This 1963 amendment to the "Selective Sales and Use Tax Act of 1956," supra, was the first step in earmarking a major source of revenue directly to public education and in support of the services rendered by teachers to children in all school districts of the Commonwealth

In Pennsylvania it takes more than a six per cent sales tax and other general state revenue to support the public school systems throughout the Commonwealth. Indeed, as you will see from schedules I through V, infra, that it takes at least 50 per cent from local Scranton taxpayers.

It has been a substantial number of these local taxpayers who have for all these years prior to Act 109, supra, sustained a dual school system, public and non-public, in this a

pluralistic society. It is the supporters of private education, also public school taxpayers, who bear their full share of the six per cent "Tax Act of 1963 for Education."

Hence, it should come as no surprise that the time came to earmark public funds for non-public secular education, or to reiterate Mr. Justice Black's common sense approach from Everson, supra:

> It is much too late to argue that legislation intended to facilitate the opportunity of children to get a secular education serves no public purpose.

Accordingly, "*it is much too late*" in Pennsylvania to believe that the defeat of Act 109, supra, will not be devastating to the six per cent Tax Act for Education, the real estate taxpayer, the wage and property taxpayers, the per capita taxpayer, and so on, not to mention our present public school system and those children in our non-public schools who deserve an opportunity "*to get a secular education,*" which surely serves many "*public purposes*" (italics ours).

*Argument*

## 4. NON-PUBLIC SCHOOLS AS PUBLIC EMPLOYER

A broadened America is now old enough and Americans sufficiently sophisticated to see things as they are. It is a truism that we can know nothing of the present, without knowing the past from which the present has come.

It is my humble opinion that all the strife that has gone into church-state debate and the attempted legal restructuring of God in His relationship to man is a sin.

We truly believe that in Pennsylvania at least the General Assembly has wisely dealt with the secular affairs of men and left their devotion, or lack of it, to themselves. On the other hand, the Pennsylvania General Assembly has not been gun-shy when called upon to restructure the rights of men, even though these rights might be exercised in what the opponents to Act 109, supra, argue is non-secular because it is a parochial or private non-public school.

As Amicus Curiae, we urge that if Act 109, supra, is fully non-secular, then *Act 195, July 23, 1970, fully effective Oct. 21, 1970* or the *"Public Employe Relations Act"* is an intrusion by the state into the sectarian affairs of the church, which would surely be unconstitutional.

It is not difficult to see how the General Assembly in its desire to give economic relief to non-public schools through Act 109, supra, felt that these institutions were entitled to support for their students in the secular areas delineated by the Act. The same General Assembly had this consensus when in the *"Public Employe Relations Act"* it defined a public employer, thusly:

> "Public employer" means the Commonwealth of Pennsylvania, its political subdivisions including school districts and any officer, board, commsson, agency, auth-

ority, or other instrumentality thereof AND ANY NONPROFIT ORGANIZATION OR INSTITUTION AND ANY CHARITABLE, RELIGIOUS, SCIENTIFIC, LITERARY, RECREATIONAL, HEALTH, EDUCATIONAL OR WELFARE INSTITUTION RECEIVING GRANTS OR APPROPRIATIONS FROM LOCAL STATE OR FEDERAL GOVERNMENTS but shall not include employers covered or presently subject to coverage under the act of June 1, 1937 (*P.L.* 1168), as amended, known as the "*Pennsylvania Labor Relations Act*," the act of July 5, 1935, *Public Law* 198, 74*th Congress*, as amended, known as the "*National Labor Relations Act.*"

Wherefore, we urge that if a non-public school affiliated with a sectarian denomination must bargain collectively with its employes, who are people, as required by said Act 195, then how can such an institution be considered so "churchy" that it must be deprived of public support in its endeavor to educate children who are also people. Moreover, a non-public school, which is now required to "collectively bargain" with its employes had better have collateral sources for economic support as from Act 109, or else.

## CONCLUSION

Finally, we pray this Court to sustain the decision of the District Court Panel by this non-secular language of Act 109, to wit:

> "(6) That, should a majority of parents of the present nonpublic school population desire to remove their children to the public schools of the Commonwealth, an intolerable financial burden to the public would result, as well as school stoppages and long term derangement and impairment of education in Pennsylvania; that such hazard to the education of children may be substantially reduced and all education in the Commonwealth improved through the purchase herein provided of secular educational services from Pennsylvania nonpublic schools."

SURELY THE LEGALITY OF ACT 109 IS NOT BEYOND THE JURIDICAL WIT OF MAN

JAMES A. KELLY
*Attorney for Amicus Curiae*
Office of the Solicitor
300 Scranton Life Building
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*Advisories*

## ADVISORY A

## RESOLUTION
## TO FILE OF SOLICITOR NO. 12, 1970

RE: AMICUS CURIAE BRIEF IN SUPPORT OF PENNSYLVANIA NON-PUBLIC ELEMENTARY AND SECONDARY EDUCATION ACT, 1968, JUNE 19, ACT NO. 109, 24 PURDON STATUTES 5602, ET SEQ.

WHEREAS, the General Assembly of the Commonwealth of Pennsylvania adopted Act 109 (P.N.E.S.E.A.) thereby providing public support to the education of non-public school children, which support has been funded and was funded from tax sources created at or about the time of the Act, none of which diverted normal tax revenue from the public to the private sector; and

WHEREAS, the Philadelphia School Board recognizing the need and urgency for the continuation of a non-public school system running parallel and complementary to the public school system as a means of lessening the urban crisis and tax impact that has and shall continue to occur by virtue of the closure and diminution of non-public schools; and

WHEREAS, the Scranton School Board, being concerned with all education in the School District of the City of Scranton, has naturally and conscientiously reached a similar conclusion relative to the crises occurring in Philadelphia and other large and small school districts across the Commonwealth; and

WHEREAS, the Scranton School Board recognizes that to ignore that which the Philadelphia School Board has officially and openly admitted would be a contradiction to certain known social and economic facts now already existent in the Scranton School District; and

*Advisory A*

WHEREAS, to ignore the real and substantial benefits derived by school systems in the public sector from said Act 109 would be to create a basis upon which the taxpayers of the School District of the City of Scranton would almost immediately sustain greater wage and real estate tax burdens; and

WHEREAS, the District Solicitor, James A. Kelly, Esq., upon consultation with the Scranton School Board has advised of the legal efficiency of Act 109 and has recommended to the Board of Directors that he be authorized and directed to join as counsel, amicus curiae, with Robert Landis, Esq., of the Philadelphia firm of Dechert, Price & Rhoades, or to file a separate Amicus Curiae Brief on behalf of this School District, in the case of Lemon v. Kurtzman, et al, in the Supreme Court of the United States, October Term, 1970, No. 89, thereby in support of the official position of David H. Kurtzman, Secretary of the Commonwealth of Pennsylvania, the Pennsylvania General Assembly and the School District of the City of Philadelphia, among others.

NOW, THEREFORE, BE IT RESOLVED, that District Solicitor, James A. Kelly, Esq., is hereby authorized and directed to carry out the tenor and effect of the within Resolution.

Action: All eight members present voted yea, Directors Alfred M. Sporer, Joseph C. Muskett, Eugene F. Hickey, Vincent S. Yuskiewicz, Dorothy M. Kairis, William J. Murray, Walter Gantz and Wallace J. Cullen; Donald B. Cahoon, Esq., was not present and did not vote.

ADOPTED THIS 3rd DAY OF AUGUST, 1970.

CERTIFIED FROM THE RECORDS OF THOMAS W. HOGAN, DISTRICT SECRETARY.

s/ THOMAS W. HOGAN

ADVISORY B

August 6, 1970

Mr. James A. Kelly
Solicitor
School District of Scranton
300 Scranton Life Building
Scranton, Pennsylvania 18503

Dear Mr. Kelly:

In connection with your sponsorship of an Amicus Curiae Brief on behalf of the Board of Directors of the School District of Scranton, I would like to offer the following rationale that, there is a national need, a public interest, in the plurality of educational choices. Certainly no child ought to be subjected to value inculcations which encounter his parents' conscience, or the family's cultural needs or traditions.

In our American society we have a tension between the melting pot demands and the demands of individuality. The public interest lies midway between these two poles. Unity, we are now finding out, lies as little in educational monopoly, as it does in educational atomization. The realization of the *public* interest lies in totally fostering public education for all those *who want* it, but the public interest does not stop there. The realization of the public interest lies also in partially fostering nonpublic education. In a now heavily welfare-oriented society in which massive governmental expenditure is dominant, and in which individual men and women, who when banded together in associations or institutions, have not the economic resources with which to maintain diverse, non-state endeavours, this role of "State-enabler" serves human liberty and thus a vital public interest.

*Advisory B*

Here in the city of Scranton our two systems have a ways been complementary and parallel to each other throug the years. Our public schools have provided and are provid ing the best quality education they can. The nonpubli schools have also provided and are providing the best qualit education they can for its 5,686 children. We have until re cently managed to subsidize, at a great sacrifice, our systen of schools with the voluntary contributions of the faithful The dedicated religious teachers, once our solitary boast, are now diminishing in numbers. They must of necessity be re placed by lay teachers. The voluntary contributions of our people just cannot meet the just and reasonable salary de mands of the lay teacher. Yet without the aid of these lay teachers our system would collapse.

It must be patent to the esteemed members of your School Board and to all thinking persons that the nonpublic school system is currently in a real crisis. It just cannot sub sidize any longer the education of 5,686 pupils with volun tary contributions, nor can we count on the total services of the religious teachers, which staffed our school entirely over the decades. We must receive state and federal aid if our schools are to survive. It should be crystal clear to all that if any sizeable portion of the nonpublic school students were to transfer to the Scranton public schools for lack of funds, these public schools already overcrowded would be faced with a crisis of providing rooms and teachers for these pupils. It would also place an almost impossible tax burden on the citizens of Scranton.

Because of the foregoing rationale and facts on how the public and nonpublic schools of Scranton complement each other in achieving quality education for all children, and be cause of the immediate need of nonpublic school education

in the city of Scranton, we acknowledge the importance of an Amicus Curiae Brief and submit this rationale for your use therein.

Sincerely yours,

s/ MONSIGNOR WILLIAM L. DONOVAN
Superintendent Diocesan Schools

ADVISORY C

August 5, 1970

Attorney James A. Kelly
Office of The Solicitor
School District of The City of Scranton
300 Scranton Life Building
Scranton, Pennsylvania 18503

Dear Attorney Kelly:

It has come to my attention that the legality of Act 109, known as Pennsylvania Non-Public Elementary and Secondary Education Act of 1968, will be argued before the Supreme Court of the United States.

I have studied this law with great interest and would like to acquaint you with some of the ramifications it would present to the Scranton School District should it receive an unfavorable decision by the Supreme Court.

There are 16,513 students presently enrolld in 31 Scranton Public Schools. We have a professional staff of 800.

There are 5,686 students enrolled in 22 non-public schools in Scranton consisting of pupils from the Diocese of Scranton parochial schools, the Hebrew Day School, St. Stanislaus Polish National School and the Scranton Preparatory School. The current acceptable pupil/teacher ratio of 30 pupils for one teacher would require that an additional 190 teachers be hired to staff these buildings.

As you are aware, we are in the process of a very ambitious building program which necessitated the closing of several of our school buildings. The condition of many of the remaining buildings has, according to the in-depth study done for our "Long Range Development Plan", deteriorated beyond the degree of life expectancy. Fourteen of our elementary schools were recommended for abandonment by the

year 1975. Even if the tax support were there (which it is not) it would be a physical impossibility, under existing circumstances and with present facilities, to house even half of the total population now attending Scranton's non-public schools.

If our district were to assume responsibility of these students it would be reasonable to expect that taxes (now considered by many residents as exorbitant) would be raised in the unconscionable amount of 50%. In the past few years there has been considerable support to a movement calling for a taxpayers' strike to object to the present structure. Such action, although novel, gives great concern to administrators such as myself.

In addition to the necessity of hiring 190 additional teachers it would be necessary to increase our food services, bus transportation, guidance, psychological and other related pupil services.

With the present militant climate among teachers toward negotiating their hours, wages, working conditions, inter alia, it could present a serious problem if the situation demanded the acceptance of these several thousand extra pupils without the extra staff increase required.

Many services are now provided to non-public schools in Scranton by monies received under our Title I, Elementary and Secondary Education Act Program. It is obvious that federal aid will continue to diminish. Aid from the state, provided under Act 109 could insure the continuance of many of these programs, some which are state mandated. Some of the programs are: Basic Skills (remedial reading and remedial mathematics) which provides special help for students in both a summer and winter program, Instructional Materials Program (provides use of libraries, audio-visual aids, purchase of audio-visual equipment, etc.; Program for

*Advisory C*

Severely Retarded Youth—Ages 16-21 conducted at Allied Services Rehabilitation Center under the direction of the Child Study Department; Physical Education Program conducted by teachers from nearby East Stroudsburg Pennsylvania State College which provides instruction at the elementary level for both public and non-public school youngsters; Cultural Art Program under the direction of the Art Department, Scranton School District; a pilot program "Why Children Don't Learn" under the direction of the Pupil Services Department; a Music Program which offers individual lessons in organ and instrumental music; a Pre-School program conducted at six centers throughout the city under the direction of the Scranton Public Schools; a Secondary Reading Improvement Program; a Speech and Hearing Clinic with schedules before and after school hours during the winter months and exclusively for non-public students during the summer months.

In the foreseeable future the curtailment or elimination of funding through sources other than "local" would necessitate that the financial burden for these important services become the sole responsibility of the non-public schools involved. Nor under the present plan of organization of the new Intermediate Unit system which will operate very soon in the Commonwealth can we assume that these services can be made available to these non-public schools.

Each year medical and dental examinations are conducted by Drs. on the staff of the Scranton Public Schools and nursing services are provided. These reimbursed medical and dental services—secular in nature—suggest to me an analogy between these services and those to be purchased under Act 109. This also applies to our Child Accounting Department which has jurisdiction over all schools in this school district,

whether public or non-public with reference to census enumeration and compliance with the attendance laws.

After taking a clear and practical look at the situation I feel strongly that Act 109 is reasonable and necessary and hopefully must, on the basis of the economic and educational factors alone, receive favorable treatment from the Supreme Court thereby assuring the continuance of parallel and complementary educational services in Scranton.

Yours truly,

s/ EUGENE M. LANGAN
Acting Superintendent
Scranton Public Schools

# SCHEDULES

# I, II, III, IV, V

## Schedule I
## The Scranton Public System Actual
## 1960 thru 1969

| Year | Tax Rate Mills | Budgeted Disbursements | Instructional Salaries | % to Total ← | Instructional Expense Other | % to Total ← | Debt Service Improvements | % to Total ← | New Bldg. Rental | % to Total ← | Public Pupil Cost Debt Service Improvements | Public Pupil Cost New Bldg. Rental | Public Pupil Cost Per Public Pupil |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1960 | 27.5 | $ 7,020,287 | $ 3,665,579 | 52.21 | $ 220,652 | 3.14 | $ 468,633 | 6.68 | $ | | $ 28.27 | | $ 424.03 |
| 61 | 27.5 | $ 7,613,455 | $ 3,714,373 | 48.78 | $ 276,664 | 3.63 | $ 344,370 | 4.52 | $ | | $ 20.75 | | $ 458.81 |
| 62 | 30.0 | $ 7,903,731 | $ 3,817,210 | 48.30 | $ 265,653 | 3.36 | $ 352,328 | 4.46 | $ | | $ 20.97 | | $ 470.43 |
| 63 | 33.0 | $ 8,602,979 | $ 4,089,278 | 47.53 | $ 275,805 | 3.21 | $ 383,755 | 4.46 | $ | | $ 22.60 | | $ 506.71 |
| 64 | 33.0 | $ 9,025,047 | $ 4,398,182 | 48.73 | $ 286,109 | 3.17 | $ 416,330 | 4.61 | $ | | $ 23.93 | | $ 518.74 |
| 65 | 33.0 | $ 8,944,096 | $ 4,697,958 | 52.53 | $ 104,126 | 1.16 | $ 401,300 | 4.49 | $ | | $ 23.93 | | $ 515.78 |
| 66 | 36.0 | $ 9,019,878 | $ 5,226,311 | 57.94 | $ 608,213 | 6.74 | $ 391,561 | 4.34 | $ 116,730 | 1.29 | $ 22.43 | $ 6.69 | $ 516.60 |
| 67 | 36.0 | $ 10,113,592 | $ 5,729,622 | 56.65 | $ 419,025 | 4.14 | $ 428,150 | 4.23 | $ 116,730 | 1.15 | $ 24.71 | $ 6.74 | $ 583.59 |
| 68 | 36.0 | $ 11,339,974 | $ 6,265,276 | 55.25 | $ 529,586 | 4.67 | $ 467,469 | 4.12 | $ 116,730 | 1.10 | $ 27.23 | $ 6.80 | $ 660.53 |
| 69 | 37.0 | $ 11,790,547 | $ 7,097,139 | 60.19 | $ 486,795 | 4.12 | $ 495,604 | 4.20 | $ 116,730 | 0.99 | $ 29.14 | $ 6.86 | $ 693.15 |

NOTE: This Schedule, although published by the School District Secretary Thomas W. Hogan, in cooperation with the Assistant District Secretary Edward J. Fitzsimmons, is based upon official records of the School District of the City of Scranton as subjected to audit by an independent certified public accountant, as filed in the Court of Common Pleas of Lackawanna County, Pennsylvania, and to the governmental audit of the Auditor General of Pennsylvania. Also, filed with Pennsylvania Department of Education.

## Schedule II
## The Scranton Public System Projected
## 1970 thru 1978

| Year | Tax Rate Mills | Budgeted Disbursements | Instructional Salaries | % to Total ← | Instructional Expense Other | % to Total ← | Debt Service Improvements | % to Total ← | New Bldg. Rental | % to Total ← | Public Pupil Cost Debt Service Improvements | New Bldg. Rental | Cost Per Public Pupil |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1970 | 39.0 | $ 14,577,990 | $ 7,988,083 | 54.80 | $ 702,017 | 4.82 | $ 533,954 | $ 3.66 | $ 414,515 | $ 2.84 | $ 30.70 | $ 23.83 | $ 838.10 |
| 71 | 43.0 | 15,567,621 | 8,763,431 | 56.30 | 770,328 | 4.95 | 519,429 | 3.34 | 632,515 | 4.06 | 29.76 | 36.23 | 891.87 |
| 72 | 48.0 | 16,617,204 | 9,359,345 | 56.32 | 822,710 | 4.95 | 498,009 | 3.00 | 750,515 | 4.52 | 28.38 | 42.77 | 947.07 |
| 73 | 51.0 | 17,679,508 | 9,995,781 | 56.54 | 878,654 | 4.97 | 440,018 | 2.49 | 856,515 | 4.84 | 24.89 | 48.46 | 1,000.26 |
| 74 | 54.0 | 18,817,867 | 10,675,494 | 56.73 | 938,403 | 4.99 | 393,760 | 2.09 | 960,515 | 5.10 | 22.23 | 54.22 | 1,062.20 |
| 75 | 57.0 | 20,010,409 | 11,401,428 | 56.98 | 1,002,214 | 5.00 | 326,750 | 1.63 | 1,069,515 | 5.34 | 18.34 | 60.01 | 1,122.86 |
| 76 | 60.0 | 21,338,083 | 12,176,725 | 57.07 | 1,070,365 | 5.02 | 316,613 | 1.48 | 1,178,515 | 5.52 | 17.66 | 65.75 | 1,190.48 |
| 77 | 62.0 | 22,640,286 | 13,004,742 | 57.44 | 1,143,150 | 5.05 | 285,775 | 1.26 | 1,205,515 | 5.32 | 15.86 | 66.88 | 1,256.12 |
| 78 | 65.0 | 24,064,473 | 13,889,065 | 57.72 | 1,220,884 | 5.07 | 268,325 | 1.12 | 1,234,515 | 5.13 | 14.77 | 67.97 | 1,324.99 |

NOTE: This schedule, where not actual for past years, is a projection based upon a 10 Year Long Range Development Program required by and filed with the Pennsylvania Department of Education, Harrisburg, Pennsylvania, on July 1, 1969, consultant advice of Davis MacConnell Ralston, Inc., Educational Consultants, Alexandria, Virginia.

## SCHEDULE III
## The Public System Plus Non-Public
## 1960 through 1969

| Year | Total Actual Budget Disbursements | Millage Required | Total Actual plus 100% Non-Public | Additional Dollars Required | Total Actual Plus 50% Non-Public | Additional Dollars Required | Total Actual Plus 25% Non-Public | Additional Dollars Required |
|---|---|---|---|---|---|---|---|---|
| 1960 | $ 7,020,287 | 27.5 | $ 10,385,813 | $ 3,365,526 | $ 8,703,050 | $ 1,682,763 | $ 7,861,669 | $ 841,382 |
| 1961 | 7,613,455 | 27.5 | 11,471,588 | 3,858,133 | 9,542,522 | 1,929,067 | 8,577,988 | 964,533 |
| 1962 | 7,903,731 | 30.0 | 11,842,641 | 3,938,910 | 9,873,186 | 1,969,455 | 8,888,459 | 984,728 |
| 1963 | 8,602,979 | 33.0 | 12,764,082 | 4,161,103 | 10,683,531 | 2,080,552 | 9,643,255 | 1,040,276 |
| 1964 | 9,025,047 | 33.0 | 13,200,904 | 4,175,857 | 11,112,976 | 2,087,929 | 10,069,011 | 1,043,964 |
| 1965 | 8,944,096 | 33.0 | 12,903,223 | 3,959,127 | 10,923,660 | 1,979,564 | 9,933,878 | 989,782 |
| 1966 | 9,019,878 | 36.0 | 12,765,745 | 3,745,867 | 10,892,812 | 1,872,934 | 9,956,345 | 936,467 |
| 1967 | 10,113,592 | 36.0 | 14,108,266 | 3,994,674 | 12,110,929 | 1,997,337 | 11,112,261 | 998,669 |
| 1968 | 11,339,974 | 36.0 | 15,640,024 | 4,300,050 | 13,489,999 | 2,150,025 | 12,414,987 | 1,075,013 |
| 1969 | 11,790,547 | 37.0 | 16,127,587 | 4,337,040 | 13,959,067 | 2,168,520 | 12,874,807 | 1,084,260 |

NOTE: This Schedule, although published by the School District Secretary Thomas W. Hogan, in cooperation with the Assistant District Secretary Edward J. Fitzsimmons, is based upon official records of the School District of the City of Scranton as subjected to audit by an independent certified public accountant, as filed in the Court of Common Pleas of Lackawanna County, Pennsylvania, and to the governmental audit of the Auditor General of Pennsylvania. Also, filed with Pennsylvania Department of Education.

# SCHEDULE IV
## The Public System Plus Non-Public
## 1970 through 1978

| Year | Total Projected Budget Disbursements | Millage Required | Total Projected plus 100% Non-Public | Additional Dollars Required | Total Projected Plus 50% Non-Public | Additional Dollars Required | Total Projected Plus 25% Non-Public | Additional Dollars Required |
|---|---|---|---|---|---|---|---|---|
| 1970 | $ 14,577,990 | 39.0 | $ 19,574,742 | $ 4,996,752 | $ 17,076,366 | $ 2,498,376 | $ 15,827,178 | $ 1,249,188 |
| 1971 | 15,567,621 | 43.0 | 20,630,767 | 5,063,146 | 18,099,194 | 2,531,573 | 16,833,408 | 1,265,787 |
| 1972 | 16,617,204 | 48.0 | 21,753,165 | 5,135,961 | 19,185,185 | 2,567,981 | 17,901,194 | 1,283,990 |
| 1973 | 17,679,508 | 51.0 | 22,868,857 | 5,189,349 | 20,274,183 | 2,594,675 | 18,976,845 | 1,297,337 |
| 1974 | 18,817,867 | 54.0 | 24,089,566 | 5,271,699 | 21,453,717 | 2,635,850 | 20,135,792 | 1,317,925 |
| 1975 | 20,010,409 | 57.0 | 25,358,591 | 5,348,182 | 22,684,500 | 2,674,091 | 21,347,455 | 1,337,046 |
| 1976 | 21,338,083 | 60.0 | 26,767,862 | 5,429,779 | 24,052,973 | 2,714,890 | 22,695,528 | 1,357,445 |
| 1977 | 22,640,286 | 62.0 | 28,123,250 | 5,482,964 | 25,381,678 | 2,741,482 | 24,011,027 | 1,370,741 |
| 1978 | 24,064,473 | 65.0 | 29,666,531 | 5,602,058 | 26,865,502 | 2,801,029 | 25,464,988 | 1,400,515 |

NOTE: This schedule, where not actual for past years, is a projection based upon a 10 Year Long Range Development Program required by and filed with the Pennsylvania Department of Education, Harrisburg, Pennsylvania, on July 1, 1969, consultant advice of Davis MacConnell Ralston, Inc., Educational Consultants, Alexandria, Virginia.

| | Completed | 1970 71 | 1971 72 | 1972 73 | 1973 74 | 1974 75 | 1975 76 | 1976 77 | 1977 78 | 1978 79 |
|---|---|---|---|---|---|---|---|---|---|---|
| ELEMENTARY SCHOOLS | | | | | | | | | | |
| NEW | | | | | | | | | | |
| 1. S.S. Educational Plaza | | $1,500,000 | | | | | | | | |
| 2. Oxford Plot | | | $1,500,000 | | | | | | | |
| 3. Woodrow Wilson | | | 1,200,000 | | | | | | | |
| 4. Jackson Street | | | | | $1,500,000 | | | | | |
| 5. Grand Street | | | | | | $1,800,000 | | | | |
| 6. Bangor Heeights | | | | | | | $1,500,000 | | | |
| 7. Tripp Park | | | | | | | | $1,500,000 | | |
| 8. Prescott (No. 38) | $ 520,888 | | | | | | | | | |
| 9. J. F. Kennedy (No. 7) | 489,252 | | | | | | | | | |
| 10. Chas. Sumner (No. 18) | 937,732 | | | | | | | | | |
| 11. Neil Armstrong (No. 40) | 2,867,172 | | | | | | | | | |
| ADD. & RENOVATION | | | | | | | | | | |
| 1. Robert Morris (No. 27) | 573,822 | | | 699,000 | | | | | | |
| 2. John G. Whittier (No. 2) | 413,185 | | | | | | | | | |
| 3. James Madison (No. 33) | | | | | 325,400 | | | | | |
| 4. Francis Williard (No. 32) | | | | | | | 379,000 | | | |
| 5. Geo. Bancroft (No. 34) | | | | | | | | 378,200 | | |
| MIDDLE SCHOOLS | | | | | | | | | | |
| NEW | | | | | | | | | | |
| 1. West Side Middle School | | 3,600,000 | | | | | | | | |
| CONVERSIONS | | | | | | | | | | |
| 1. John J. Audubon (No. 42) | 209,750 | | | | | | | | | |
| 2. North & South Jr. H. S. | | | 1,059,600 | | | | | | | |
| HIGH SCHOOLS | | | | | | | | | | |
| NEW & ADDITIONS | | | | | | | | | | |
| 1. Central/Tech or New East | | 4,070,500 | | | | | | | | |
| RENOVATIONS/ MODIFICATIONS | | | | | | | | | | |
| 1. Central/Tech/West | | | | 1,344,000 | | | | | | |
| CENTRAL ADMINISTRATIVE & SERVICES | | | | | | | | | | |
| 1.Central Warehouse | | | | | | | | | $ 462,000 | |
| 2. Administration Bldg. | | | | | | | | | | $ 250,000 |
| SITE ACQUISITION RESERVE | | | | | | | | | | 250,000 |
| TOTALS | 6,011,801 | 9,170,500 | 3,759,600 | 2,043,000 | 1,825,400 | 1,800,000 | 1,879,000 | 1,878,200 | 462,000 | 500,000 |

(Continued on Page 6-S)

## Schedule V — (Continued)

RECAPITULATION:

| | | | |
|---|---|---|---|
| COMPLETED PROJECTS | 6,011,801 | COMMITTED PROJECTS: | |
| | | Elementary Schools | $12,281,600 |
| | | Middle Schools | 4,659,600 |
| | | High Schools | 5,414,500 |
| | | Administration | 962,000 |
| | | Total | 23,317,700 |

NOTE: This schedule, where not actual for past years, is a projection based upon a 10 Year Long Range Development Program required by and filed with the Pennsylvania Department of Education, Harrisburg, Pennsylvania, on July 1, 1969, consultant advice of Davis MacConnell Ralston, Inc., Educational Consultants, Alexandria, Virginia.